

## Exhibit G

### Board of Island County Commissioners Findings of Fact

#### Background and Project Summary

1. The Washington State Growth Management Act (GMA) requires that local governments designate and protect critical areas (RCW 36.70A.170 & 36.70A.060 (2)) and critical areas are defined as including the following areas and ecosystems: wetlands, critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas (RCW 36.70A.030 (5)).
2. The GMA requires local governments to periodically review, and if necessary, update their comprehensive plans and development regulations (RCW 36.70A.130). This review process is intended to ensure that local plans and regulations are up-to-date and take into consideration changing conditions and advances in technical and scientific knowledge.
3. Island County previously updated its comprehensive plan and development regulations in 2005. During this update Island County reviewed all aspects of its comprehensive plan and development regulations except those dealing with Fish and Wildlife Habitat Conservation Areas (FWHCAs).
4. On January 25, 2013 the Western Washington Growth Management Hearings Board (WWGMHB) issued a decision ordering Island County to review and update the Island County Comprehensive Plan and development regulations for Fish and Wildlife Habitat Conservation Areas (WWGMHB Case No. 12-2-0016). Island County has actively worked to comply with this order.
5. Following the WWGMHB order, Island County immediately took steps to complete the required review and update. Island County listed the FWHCA update on the Annual Review Docket for 2013 and 2014 in accordance with the procedures set forth in Chapter 16.26 of the Island County Code. This work was also identified as a priority item on the 2013 and 2014 Annual Review Docket. The Island County Planning Commission and the Board of Island County Commissioners directed the Department of Planning and Community Development to consider this the highest priority for the long range planning work program.
6. On January 24, 2013 Island County applied for a National Estuary Protection (NEP) Grant to fund work on the FWHCA update. This grant was subsequently awarded in March of 2013.

7. Because the Island County Planning Department has limited staffing resources, the Department retained a professional consulting team to assist with the FWHCA update process. The consultant selection process began with the issuance of a Request for Proposals (RFP) on April 15, 2013. The deadline for firms to respond to the RFP was May 2, 2013. After reviewing proposals and interviewing a number of consulting firms, Island County selected the Watershed Company to provide the necessary technical and administrative assistance.
8. Island County was committed to ensuring that the process for updating protection standards for Fish and Wildlife Habitat Conservation Areas was transparent and easily accessible to interested parties and members of the general public.
9. The GMA requires that local governments take steps to ensure early and continuous public participation in the development and update of plans and regulations. Because of this mandate and the County's commitment to ensuring an open and transparent process, the Planning Department developed a Public Participation Plan & Preliminary Schedule. This document created a timeline for significant actions and decisions and identified essential public participation strategies; these strategies were then employed throughout the update process.
10. The Planning Commission Considered the Public Participation Plan following public hearings on September 10, 2013 and September 24, 2013. The Planning Commission recommended that the Board of County Commissioners approve the Public Participation Plan & Preliminary Schedule as drafted.
11. The Board of County Commissioners approved the Public Participation Plan, following a public hearing, through Resolution C-96-13, on October 28, 2013.
12. Planning & Community Development created an email notification list so that interested members of the public could remain informed about developments during the planning process. Planning & Community Development also created a project webpage with links to relevant materials produced throughout the update process. Documents transmitted to the Planning Commission and Board of Commissioners were also posted on the project website.
13. The GMA requires that local governments include "Best Available Science" (BAS) in the development of policies and regulations to protect the functions and values of critical areas (RCW 36.70A.172, WAC 365-190-080, & WAC 365-195-900). Island County has addressed this requirement by:

- a. Retaining a consulting firm to provide qualified scientific experts to assist with the FWHCA update and compilation of BAS as recommended by WAC 365-195-905(3); and
  - b. Utilizing a Technical Advisory Group comprised of local experts to review, and assist in the selection of BAS material; and
  - c. Producing a BAS synthesis report which summarizes the BAS material considered during the update process and analyzes the current conditions of habitats and species in Island County; and
  - d. Producing an Audit and Policy/Regulation Framework document to integrate the findings of the BAS report into the development of specific policies and regulations;
  - e. Using the Audit and Policy/Regulation Framework document to develop updated comprehensive plan policies and development regulations. Specifically, this document was used to develop revisions to the Land Use Element of the Island County Comprehensive Plan and to develop an entirely new code chapter focused on protection standards for FWHCAs (Chapter 17.02B ICC).
14. Island County organized a Technical Advisory Group, comprised of local experts on habitat conditions in Island County, to provide technical expertise during the update process.
  15. The Technical Advisory Group (TAG) convened seven times between September 20, 2013 and March 11, 2014. The group provided technical feedback on work products. All meetings were open to the public and agendas were posted on the project website.
  16. Island County produced a BAS bibliography and presented it to the Island County Planning Commission on December 10, 2013. This bibliography identified sources of scientific information that were then included in the development of a BAS synthesis report.
  17. The County's consulting team produced a BAS synthesis report, titled "Best Available Science and Existing Conditions Report for Island County's Fish and Wildlife Habitat Conservation Areas"; developed in consultation with the TAG and reviewed by the Island County Planning Commission at public workshops on March 25, 2014 and April 8, 2014.
  18. Groups or agencies who reviewed the scientific literature and BAS report included the Department of Ecology, the Department of Fish and Wildlife, and the Department of Natural Resources, the Orca Network, Polymer Land Consultants, Skagit River System Cooperative, Tulalip Tribes, Whidbey

Audubon Society, Whidbey Environmental Action Network, Whidbey Island Conservation District, and Whidbey Watershed Stewards.

19. Island County attempted to use the Puget Sound Watershed Characterization model to support a watershed-based planning analysis, an element of the grant funding for the project. State agencies made adjustments to the model to account for local conditions; however, Island County staff and the Technical Advisory Group determined that the model was unreliable given Island County's unique conditions and circumstances. Problems were also encountered with the parcel-level land use data used in development of the model. As a result, Island County did not use the watershed model as part of the update, and instead, employed a more conventional approach to identifying and protecting FWHCAs.
20. The Board of Island County Commissioners finds that the scientific literature and professional opinions contained in the BAS report meet the requirements of RCW 36.70A.172 and the criteria set out in WAC 365-195-900 through WAC 365-195-925 for determining which information can be considered best available science.
21. Planning & Community Development transmitted an Audit and Policy/Regulation Framework report to the Planning Commission on March 25, 2014 and April 8, 2014. The report identified key issues, options, and recommendations to update the Island County's FWCHA protection standards taking into account the findings of the BAS report and GMA requirements. This document was developed in consultation with the TAG and reviewed by the groups identified above.
22. The Audit and Policy document identified a range of riparian buffer widths that were consistent with the findings contained in the BAS report. The Planning Commission reviewed the range of acceptable buffers widths and determined that employing buffers at the low end of the range was the most appropriate solution for Island because such buffer widths are generally consistent with the buffers currently imposed by Island County Code.
23. The Planning Commission further found that because the selected buffer widths were at the low end of the range supported by BAS, the buffer averaging and reduction provisions which had originally been proposed should be eliminated in order to ensure an acceptable level of environmental protection. The Planning Commission felt this was the best method of balancing property rights and flexibility in land use regulations with the need to protect fish and wildlife habitat conservation areas. The Board of Island County Commissioners supports this approach and concurs with the Planning Commission's findings with respect to buffer widths and the elimination of buffer averaging and reduction allowances.

24. During the FWHCA update process a number of concerns were expressed by advocacy groups, members of the public, and TAG members. These concerns can be categorized as follows:
- a. The need to accommodate the unique characteristics of Existing and On-going Agricultural Activities, particularly with regard to regulated streams that also serve as improved agricultural drainage facilities.
  - b. The elimination of certain habitats and species of local importance from the list of protected habitats and species.
  - c. The need to include additional protection standards for prairies and rare plants.
  - d. Prohibitions on the construction of “throughput transmission facilities” (oil and gas pipelines).
  - e. Exemptions allowing for beaver and beaver dam removal.

#### Agricultural Drainage Facilities

25. The GMA establishes 13 specific goals which must be considered and balanced in the development of local comprehensive plans and development regulations. These goals are not prioritized and local governments have wide discretion to balance the competing demands imposed by these goals in order to accommodate local circumstances; however, the GMA does require that special consideration be given to protecting anadromous fish species.
26. The Board of Island County Commissioners finds that the following GMA planning goals are particularly relevant, and that special consideration should be given to balancing these goals in the development and adoption of FWHCA regulations:
- a. Goal Five, Economic Development. *Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state’s natural resources, public services, and public facilities.*
  - b. Goal Six, Property Rights. Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

- c. Goal Eight, Natural Resource Industries. *Maintain and enhance natural resource based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.*
  - d. Goal Nine, Open Space and Recreation. *Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities.*
  - e. Goal Ten, Environment. *Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.*
  - f. Goal 11, Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.
27. The Board of Island County Commissioners has expressed a desire to accommodate, promote, and develop agricultural businesses, as well as those businesses which are directly related to, and supportive of agricultural businesses. Island County is predominantly rural and the transportation barriers imposed by its island setting make pursuing traditional economic development strategies less viable. Tourism, craft industries, and resource based activities, such as small scale agricultural operations and local food production are crucial to Island County's long term economic health. Accordingly, all rural land use policies, including critical area protection standards, should be consistent in their recognition of the importance and unique needs of these activities.
28. The Board of Island County Commissioners believes that by recognizing the importance and unique needs of agricultural uses, and by considering such needs in the development of policies and regulations, the objectives of GMA Planning Goals Five and Eight can be realized, along with the open space objective of GMA Planning Goal Nine.
29. The Board of Island County Commissioners understands and supports the need to protect water quality and fish and wildlife habitat in Island County. The Board is also conscious of the environmental protection objectives expressed in GMA Planning Goals Nine and Ten, as well as the specific requirements of RCW 36.70A.170 & 36.70A.060(2), and the special mandate to protect anadromous fish species imposed by RCW 36.70A.172.
30. In certain areas of Island County, modified streams have traditionally been used as agricultural drainage systems. These modified streams must be

regularly maintained in order to preserve their value as drainage systems; however, they must also be regulated and protected through Island County's critical area protection standards in order to preserve water quality, protect fish and wildlife habitat, and to ensure that special consideration has been given to anadromous fish species reliant on such water passages.

31. Traditional buffer and mitigation strategies may be incompatible with existing agricultural drainage systems because the required mitigation plantings and natural vegetation areas would need to be periodically cleared in order to maintain agricultural drainage functions. The Board finds that in such instances it is appropriate to allow Natural Resource Conservation Service (NRCS) conservation practices regarding drainage maintenance to be used in place of traditional mitigation strategies and in addition to Island County's Best Management Practices. The Board further finds that when limited to Existing and On-going Agricultural Activities, and when subject to review and approval by the Island County Department of Planning and Community Development, such an approach balances the economic development considerations of GMA Planning Goal Five, the agricultural preservation objectives of GMA Planning Goal Eight, and the open space preservation objectives expressed by GMA Planning Goal Nine, with the environmental protection objectives of GMA Planning Goals Nine and Ten.

#### Habitats and Species of Local Importance

32. During the comment period concern was expressed that Island County had deleted a number of habitats and species of local importance from the list of protected habitats and species. Notably, the habitats and species of local importance which have been deleted from the list of protected habitats and species either occur exclusively within the jurisdiction of the Shoreline Management Act (SMA) or are adequately regulated by Island County's wetland protection standards (Chapter 17.02A ICC).
33. The GMA states that local governments shall protect critical areas within the jurisdiction of the Shoreline Management Act (SMA) through their critical area regulations until they complete a comprehensive update of their local Shoreline Master Program (SMP), and this update is approved by the Washington State Department of Ecology (DOE) (RCW 36.70A.480(3)(b)). The GMA further states that once an updated SMP is approved by DOE, critical areas within SMA jurisdiction shall be regulated by a local SMP, and not their critical areas regulations (RCW 36.70A.480(3)(d)).
34. Island County has completed a comprehensive update of its SMP. This SMP has been given preliminary approval at the local level and is currently being reviewed by DOE. Upon approval by DOE, Island County will need to take final legislative action adopting the SMP.

35. Because RCW 36.70A.480(3)(d) requires that critical areas within SMA jurisdiction be regulated and protected through the provisions of locally adopted SMPs which have been updated, and approved by DOE, pursuant to the requirements of RCW 90.58.080; and because Island County has prepared an updated SMP which DOE is currently reviewing, those habitats and species of local importance which occur exclusively within SMA jurisdiction have been deleted from the list of habitats and species of local importance.
36. The Board of Island County Commissioners notes that the provisions of RCW 36.70A.480(3)(d) do not become effective until DOE approves the County's preliminarily-approved SMP and Island County then takes final legislative action adopting the SMP. However, at this time DOE has not completed its review. This will not, however, result in a gap in protection standards. The updated FWHCA regulations contain a provision which specifically states that FWHCAs within SMA jurisdiction shall continue to be protected through the provisions of Chapter 17.02 ICC until such time that DOE completes its review and approves Island County's updated Shoreline Master Program and Island County then takes final legislative action.
37. Two other Habitats of Local Importance were also excluded from the updated list of protected habitats and species, Newman Road Lakes and Hastie Lake, which are large wetlands protected and regulated through the provisions of Chapter 17.02A ICC. This approach is consistent with the process for designation, and de-designation of habitats and species of local importance described in ICC 17.02B.500.A. This code section notes that de-designation may occur if a listed habitat is protected through other means.

#### Protection Standards for Prairies and Rare Plants

38. During the public comment period concern was expressed by some members of the public that the proposed changes to the Island County Comprehensive Plan and critical areas regulations do not adequately protect prairies, oak woodlands, and rare plants. Ultimately the Planning Commission concluded that the requirements of the GMA were satisfied by protecting only those plant species and plant communities that provide critical habitat for fish and wildlife species. However, the Planning Commission also stated that they felt there was some ambiguity with respect to the required scope of GMA mandated critical area protection standards and the definition of the term "wildlife". The Board of Island County Commissioners does not believe any ambiguity exists; rather, the Board finds the GMA is specific with respect to some FWHCAs which must be protected, while providing a greater degree of local discretion with respect to other FWHCAs.
39. The GMA requires that local governments designate and protect critical areas (RCW 36.70A. & 36.70A.060(2)). The GMA defines critical areas as including



a number of distinct natural features and conditions including wetlands, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas (RCW 36.70A.030(5)). Pursuant to state guidance in WAC 365-190-130, Fish and Wildlife Habitat Conservation Areas are to include the following:

- (a) Areas where threatened, endangered, and sensitive species have a primary association;*
- (b) Habitats and species of local importance, as determined locally;*
- (c) Commercial and recreational shellfish areas;*
- (d) Kelp and eelgrass beds; herring, smelt, and other forage fish spawning areas;*
- (e) Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish and wildlife habitat;*
- (f) Waters of the state;*
- (g) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; and*
- (h) State natural area preserves, natural resource conservation areas, and state wildlife preserves.*

The Board of Island County Commissioners finds that this list makes it clear that prairies and rare plants need not be protected unless it is either: (a) determined that a threatened, endangered, or sensitive species of fish or wildlife present in Island County has a primary association with prairies or rare plants; or, (b) it is locally determined that prairies and rare plants should be designated as habitats and species of local importance. In order to further clarify the Board's position, each of the fish and wildlife habitat conservation areas identified in WAC 365-190-130 has been individually addressed below to show how it has been addressed and how it is related to prairies or rare plants.

*WAC 365-190-130(2)(a) – Areas where threatened, endangered, or sensitive species have a primary association*

- a. These areas are adequately protected by the proposed FWHCA regulations. The Board notes that ICC 17.02B.200.A.1 specifically designates for protection all areas which have a primary association with endangered, threatened, and sensitive species, including those species of fish or wildlife designated by the U.S. Fish and Wildlife Service or Washington State Department of Fish and Wildlife (WDFW) as being endangered, threatened, or sensitive.
- b. The areas described above are classified as critical areas and the proposed FWHCA regulations contain protection and evaluation standards applicable to development occurring within 1,000 feet of a habitat associated with a protected species or a designated critical area. In such

instances a biological site assessment (BSA) must be submitted (ICC 17.02B.410.A & B), buffers must be established based on site specific evaluations and WDFW Priority Habitats and Species (PHS) data (ICC 17.02B.430.E), and any potential impacts identified in the BSA must be addressed through the preparation of a Habitat Management Plan (HMP) (ICC 17.02.B.430.F & G).

- c. During the public comment period it was suggested that prairies must be protected because they provide habitat with which threatened, endangered, or sensitive species have a primary association, most notably the Taylor's Checkerspot butterfly, a state and federally listed endangered species.
- d. The Island County Critical Areas Planner addressed the question of whether or not there are any endangered, threatened, or sensitive species of fish or wildlife currently found in Island County that have a primary association with prairies, herbaceous balds, or Oregon Oak woodlands by reviewing WDFW Priority Habitats and Species data and comparing this information to lists of species known to exist in Island County. Based on this review, it was his opinion that there are no threatened, endangered, or sensitive species present in Island County that have a primary association with prairies or oak woodlands. The Critical Areas Planner did note however, that several areas in Island County have been identified as suitable habitat for the Taylor's Checkerspot butterfly should it be reintroduced, but further noted that most of these areas are in federal or state ownership or managed for conservation purposes.
- e. Although there are no known threatened, endangered, or sensitive species that have a primary association with prairies or oak woodlands currently present in Island County, should any such species be discovered, its habitat would be protected by the regulatory provisions identified above.
- f. Pursuant to WAC 232-12-297, the phrase "endangered, threatened, and sensitive species" includes only animals classified as a species or subspecies as commonly accepted by the scientific community.
- g. The GMA requires that local governments protect a number of critical areas, one of which is fish and wildlife habitat. While the GMA does not define the term "wildlife", the Department of Fish and Wildlife, an agency with expertise, defines wildlife as "*all species of the animal kingdom whose members exist in Washington in a wild state. This includes but is not limited to mammals, birds, reptiles, amphibians, fish, and invertebrates...*" (RCW 77.08.010(78)). Because the phrase "endangered, threatened, or sensitive species" includes only animals, and because the term wildlife includes only animals, the Board of Island County

Commissioners finds that plants and plant communities must only be protected when it can be shown that a species of fish or wildlife has a primary association with a plant or plant community.

*WAC 365-190-130(2)(b) - Habitats and species of local importance, as determined locally.*

- a. The GMA requires local governments to identify, classify, and designate locally important habitats and species, but allows the local government to exercise discretion in determining which habitats and species should be designated as habitats and species of local importance.
- b. Both the current and proposed FWHCA regulations contain a list of habitats and species which have been determined to be locally important. Island County does not think the current list needs to be expanded. Furthermore, Island County's current FWHCA regulations contain provisions that allow any citizen or organization to nominate a habitat or species for designation as a habitat and species of local importance (ICC 17.02.050.C.1(h)), and these provisions were revised to make them more specific and binding (ICC 17.02B.500).
- c. It has been suggested that Island County should designate prairies as habitats and species of local importance at this time. The Board of Island County Commissioners finds that such a designation is not warranted at this time because: (1) large areas of Island County's remaining native prairies are owned by public entities or by private organizations and managed for conservation purposes, and are therefore not in any immediate risk of being lost or destroyed, (2) several large prairie remnants are protected by existing or proposed programs, policies and regulations, (3) this topic was discussed at a Technical Advisory Group (TAG) meeting and most members were not in favor of developing specific protection standards for prairies at this time, and (4) Island County is currently in the process of updating its comprehensive plan and development regulations, this will provide an opportunity to address concerns about prairies in a more comprehensive fashion by considering a full range of potential programs, policies, and regulations.
- d. The Board finds that while prairies have not been added to the list of habitats and species of local importance, the proposed regulations do protect several large prairie remnants. The proposed FWHCA regulations identify high quality terrestrial ecosystems designated by the Department of Natural Resources as critical areas (ICC 17.02B.200.A.4). The prairies mapped through this program include: Ebey's Bluff, Smith Prairie, Goose Rock, and a small bald in Deception Pass State Park. State Natural Area Preserves, State Natural Resource Conservation Areas, and State Wildlife Areas are also designated as critical areas pursuant to ICC

17.02B.200.A.3. This designation included the Nass (Admiralty Inlet) Natural Area Preserve. In addition, the existing list of habitats and species of local importance includes the Whidbey Island Game Farm/Au Sabel Institute property. This property contains a portion of Smith Prairie and is actively managed for conservation and prairie restoration purposes.

*WAC 365-190-130(2)(c) – Commercial and recreational shellfish areas*

- e. These areas are entirely within shoreline jurisdiction and will be regulated by the updated Island County SMP. Potential water quality impacts have been addressed through the proposed riparian buffers. These areas do not include prairies or rare plants.

*WAC 365-190-130(2)(d) – Kelp and eelgrass beds; herring, smelt, and forage fish spawning areas*

- f. These areas are entirely within shoreline jurisdiction and will be regulated by the updated Island County SMP. Upland development in inappropriate locations can lead to the construction of bulkheads or shoreline armoring. These structures can, in turn, lead to a loss of forage fish spawning habitat. Accordingly, upland development adjacent to, but outside of SMA jurisdiction has been addressed in the proposed FWHCA regulations (ICC 17.02B.450.D). These areas do not include prairies or rare plants.

*WAC 365-190-130(2)(e) – Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat*

- g. These areas are regulated as wetlands if less 6.6 feet deep and are protected through the provisions of Chapter 17.02A ICC. Ponds greater than 6.6 feet are protected by the proposed FWHCA regulations under ICC 17.02B.420.D. These areas do not include prairies or rare plants.

*WAC 365-190-130(2)(f) – Waters of the State*

- h. Streams and Waters of the State are designated as critical areas by the proposed FWHCA regulations (ICC 17.02B.200.A.2). Waters of the State do not include prairies or rare plants.

*WAC 365-190-130(2)(g) – Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity*

- i. Ponds or lakes larger than twenty acres are subject to the jurisdiction of the Shoreline Management Act and will be regulated by the updated Island County SMP. Streams and rivers have been designated as critical areas under the proposed FWHCA regulations and specific protection

standards have been included (ICC 17.02B.420). These areas do not include prairies or rare plants.

*WAC 365-190-130(2)(h) – State natural preserves, natural resource conservation areas, and State wildlife areas*

- j. These areas are designated as critical areas under the proposed FWHCA regulations (ICC 17.02B.200.A.3). The Naas (Admiralty Inlet) natural area preserve contains prairies and these areas are subject to the evaluation and protection standards established by the proposed FWHCA regulations.

#### Throughput Transmission Facilities (oil and gas pipelines)

- 40. Island County received numerous comments advocating for prohibitions on throughput transmission facilities. Although the previous FWHCA regulations did not contain a prohibition on such facilities, Island County's wetland and zoning regulations (Chapters 17.02A & 17.03 ICC) prohibit or strongly discourage the construction of such facilities. The Board of Island County Commissioners finds that there is no compelling reason to allow fish and wildlife habitat conservation areas to be altered or impacted in order to permit the construction of throughput transmission facilities. Therefore, the FWHCA regulations approved by the Island County Planning Commission have been amended to prohibit these facilities in critical areas.

#### Beaver Control

- 41. The Board of Island County Commissioners finds that in order to protect property and agricultural operations from flooding and damage it is necessary to amend the FWHCA regulations approved by the Island County Planning Commission to allow for the control and removal of beavers and beaver dams. The board further finds that provided no permanent alteration of a critical area occurs, and provided the activity is authorized by the Washington State Department of Fish and Wildlife, the functions and values of critical areas will be adequately protected.

#### Procedural Findings

- 42. This update is not subject to the Annual Review Procedures of Chapter 16.26 ICC, which governs amendments to the comprehensive plan and development regulations. The adoption of amendments to resolve an order from the Growth Management Hearings Board is exempt from these procedural requirements pursuant to ICC 16.26.020.B.
- 43. It is in the best interest of permit applicants and County staff to have critical area regulations condensed into a single code chapter. The proposed new

Chapter 17.02B ICC will create a framework for a unified critical areas ordinance. Island County intends to complete this work through the 2016 Comprehensive Plan update process.

44. Prior to the approval of an updated Shoreline Master Program by the Department of Ecology and subsequent final legislative action taken by this Board to adopt the SMP; critical areas within shoreline jurisdiction shall be regulated by locally adopted critical area regulations rather than by Shoreline Master Program requirements. Upon approval of an updated Shoreline Master Program, critical areas within the jurisdiction of the Washington State Shoreline Management Act shall be regulated by the Shoreline Master Program. Island County has adopted an updated Shoreline Master Program; however, it has not yet been approved by the Department of Ecology. Accordingly, it is the intent of the Board of Island County Commissioners that critical areas within shoreline jurisdiction will continue to be regulated by the provisions of Chapters 17.02 and 17.02A ICC until such time that Island County takes final legislative action to adopt the Shoreline Master Program after it is approved by the Department of Ecology.
45. The amendments to the Island County Comprehensive Plan, attached hereto as Exhibit A, are consistent with the proposed implementing development regulations. The changes are based on Best Available Science and comply with the requirements of the Washington State Growth Management Act.
46. The critical area regulations attached hereto as Exhibit B, are consistent with and supported by the Island County Comprehensive Plan and the Washington State Growth Management Act. The changes are based on Best Available Science and are sufficient to meet the requirements of the Washington State Growth Management Hearings Board order. The Board of County Commissioners finds that these regulations should be included in Island County Code as a new Chapter 17.02B ICC.
47. The amendments to Title III, attached hereto as Exhibit C, Title XVI, attached hereto as Exhibit D, and Title XVII, attached hereto as Exhibit E, are necessary to achieve internal consistency with the amendments to Chapter 17.02B ICC and to fully implement the proposed changes to the Island County Comprehensive Plan.
48. The Board of County Commissioners finds that the time limit for maintaining an Existing and Ongoing Agricultural Activity identified in ICC 17.02B.300.A should be 5 years rather than the 6.5 year period proposed by the Island County Planning Commission. The exemption for Existing and On-going Agricultural Activities includes language allowing for a limited extension of the five year period due to unavoidable and unintentional events which make agricultural use of the land impossible.

49. As part of the 2016 Update, the County plans to review, update, and codify a local set of BMPs (originally adopted as Exhibit B to Ordinance C-151-99) using the NRCS conservation practice standards as a reference source adhering to best available science requirements in their development.
50. The Board of County Commissioners recognizes the importance of prairie remnants and other rare plant communities, but finds that it is more appropriate to provide protection through other measures which can be considered during the 2016 Comprehensive Plan update. Protective measures could include prioritizing these communities for funding under the Conservation Futures program, or providing non-regulatory incentives for protection under the Island County Public Benefit Rating System.